S.B. Civil Writ Petition No.9200/05

Assistant Engineer PHED Vs. Ramavtar Meena & Anr.

Date of Order : 19/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. B.K. Sharma, Dy.G.A. for petitioner

Instant petition has been filed against the award passed by the Labour Court, Bharatpur, dt.25th July, 2005 [Ann.2].

As per material which has come on record that the respondent-workman herein was engaged on daily wages basis as Helper w.e.f. 1st October, 1987 and vide order dt.1st February, 1989 without complying with the provisions of Sections 25-F & 25-G of the Act, his services were terminated.

Petitioner-employer in their written statement submitted that workman had worked for intermittent period and he has not continuously worked for 240 days in the preceding 12 months from the date of his termination, as such there was no requirement for complying with Section 25-F of the Act.

Learned Labour Court after taking into consideration material in Para 11 recorded a finding that the respondent-workman had worked for more than 240 days as supported by detail statement of his working

period, muster-rolls and the period for which he had actually worked, which has been reproduced of the relevant period from February, 1988 to January, 1989, undisputedly compliance of Section 25-F was not made and finally held that termination w.e.f. 1st February, 1989 was in violation of Section 25-F of the Act and accordingly, directed for his reinstatement in service without any back wages.

Counsel for petitioner submits that the relevant material which has been placed on record before the Labour Court, was not considered and finding of his working for more than 240 days in preceding 12 months is not duly supported by material and requires interference by this court. Counsel further submits that the dispute was raised by the respondent-workman after more than 10 years.

I have considered submission made and also examined material on record. Learned Labour court in para 11 after taking into consideration material has recorded a finding of working for a period of more than 240 days in preceding 12 months from the date of termination and undisputedly, compliance of S.25-F was not made by the petitioner while passing order of his termination – as a consequence whereof, ordered for his reinstatement but without any back wages.

In my opinion, the appropriate government after taking into consideration made a reference which has

been duly adjudicated and no back wages have been awarded, I do not find any error in adjudication of the dispute made by the Labour Court in terms of reference despite the fact that it was raised at a belated stage.

I find no illegality in the finding recorded by the Labour Court, which is duly supported by material on record.

Consequently, the writ petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRB